

Received by the Town Clerk:

Date: BY:

[Signature]

Application complete _____

Application incomplete _____

Signed: _____

APPLICATION COVER PAGE

Date: 5/16/2023

Date Received by ZBA: 5/16/2023

Name of Applicant and Mailing Address: FFD Enterprises MA, Inc.

40 Woodland Street, Hartford, CT 06105

Email Address: bzachs@finefettle.com Telephone Number: (860) 490-0339

Name of Owner and Mailing Address (If not Applicant): Cedar Box MV, LLC

455 State Road, Vineyard Haven, MA 02568

Map and Lot #: Map 16, Lot 101

Street Address of Subject Property: 510 State Road, West Tisbury, MA

Applicant is: Tenant (Owner, Tenant, Purchaser, Other)

Nature of Application (Special Permit, Appeal, Variance): Modification of Special Permit

Applicable Section of Zoning Bylaw: 9.3-3

Date of Denial by Building Inspector, Zoning Inspector, or Planning Board (If Applicable): _____

Plot Plan: Must provide a plan by a registered surveyor showing the total property with the existing buildings, including the proposed project, all setback distances to be provided.

Plans: 2 sets of scaled drawings of floor plans that show total sq. ft. per floor (measured from exterior of wall), at least 2 elevations with one showing proposed height to ridge. If the project is an addition to existing structure please clearly identify proposed work.

Description of proposed project: Please attach a detailed narrative.

I have read the overview of the ZBA process attached to this application and completed all sections of the application cover page and therefore request a hearing before the West Tisbury Zoning Board of Appeals with reference to the above noted application.

Signed: Benjamin Zachs ceo

Title(s): Attorney



Application fee of \$200.00 is required. Date Paid: _____

CK # 2253

Modification Request

FFD Enterprises MA, Inc. ("FFD") seeks a Modification of the Amendment to the Special Permit with CONDITIONS granted by the West Tisbury Zoning Board of Appeals (the "ZBA") to FFD on August 22, 2022 for the operation of an Adult/Recreational Use Marijuana Dispensary (RMF) and a Registered Medical Marijuana Use Dispensary (RMD) at 510 State Road, West Tisbury, MA 02575. (the "Property"). (See, 935 CMR 500.000 and 501.000.) A copy of the Special Permit with CONDITIONS is appended hereto as Exhibit A.

FFD seeks to modify Condition No. 4 incorporated into the August 22, 2022 Special Permit Amendment which provides:

4. Condition No. 7 of Special Permit 2021-13 is modified. Applicant shall return to the Zoning Board of Appeals in May, 2023 for a review of daily and/or weekly walk-in traffic data AND to re-visit allowing Sunday hours to start June 1, 2023.

FFD has complied with all of the Special Permit Conditions, and FFD has complied with all of the conditions of the Martha's Vineyard Commission decision on DRI 696 dated August 13, 2020, and recorded on September 17, 2020 in Book 1543, Page 133 as required by Special Permit Condition No. 1.

More than six (6) months have elapsed since FFD commenced operations of the Dispensary on July 23, 2021, which included the months of July and August, 2021 as required by Special Permit 2021-13.

FFD requests that the ZBA modify Condition No. 4 as follows:

4. Applicant shall return to the Zoning Board of Appeals in June 2023 for a review of daily and/or weekly walk-in traffic data AND to re-visit allowing Sunday hours from 12:00 Noon to 6:00 PM starting, in 2023, upon approval of the requested modification and starting on June 1 and ending on October 1 in subsequent years thereafter.

Bases for Request for Modification of Conditions

The request for modification of Condition No. 4 in the grant of the August 22, 2022 Special Permit Amendment is to correct the omission of the annual ending date for the Sunday hours.

Further, as FFD has proven its ability to safely operate its dispensary at 510 State Road, West Tisbury and has been a good and quiet neighbor, it believes it should be able to open for limited hours on Sundays. FFD is not requesting to open in the morning or to stay open late on Sunday, so that traffic to the dispensary will be in mid-day and daylight hours. These hours would match the times that Island Time in Vineyard Haven is open on Sundays.

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY
ZONING BOARD OF APPEALS

DECISION OF THE BOARD OF APPEALS ON THE PETITION of FFD Enterprises MA, Inc., filed with the West Tisbury Town Clerk on August 22, 2022 ZBA Case File 2022-39

Applicant: FFD Enterprises MA, Inc., 40 Woodland St., Hartford, CT 06105

Property Owner: Cedar Box MV, LLC, whose title to the property is recorded at the Dukes County Registry of Deeds and described in Recorded Land – Book 1542 Page 187 dated September 10, 2020 and also in Registered Land – Document Number: 88829; Cert: 14887.

Agent: Ellen Kaplan, Kaplan and Associates, P.C.

Locus: 510 State Rd., Assessors Map 16 Lot 101, MB district, 0.405 ac.

Plans: 1) Site Plan prepared by Hayes Engineering Group dated October 14, 2020.
2) Floor plan and elevations prepared by Sullivan Associates dated February 4, 2021.
All plans on file at the Zoning Board of Appeals office.

Notice: Certified abutters notified on July 27, 2022 and legal notice advertised in the Martha's Vineyard Times on July 28th and August 4th, 2022.

Hearing & Request: A Public Hearing was held on August 11, 2022 on an Application for a Special Permit from FFD Enterprises MA, Inc. to AMEND Special Permit #2021-13 conditions affecting retail sales of marijuana at 510 State Rd., Map 16, Lot 101, MB district under section 9.3-3 of the Zoning Bylaws.

Requirement: Section 9.3-3 of the Zoning Bylaws.

Present: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis and Casey Decker.

Decision: On August 11, 2022 the Zoning Board of Appeals voted to GRANT an AMENDMENT with Conditions to Special Permit #2021-13 regarding conditions affecting retail sales of marijuana at 510 State Rd., Map 16, Lot 101, MB district under section 9.3-3 of the Zoning Bylaws.

Vote to Approve: Larry Schubert, Julius Lowe, Deborah Wells and Andy Zaikis.

Findings:

- 1) Fine Fettle Dispensary (FFD) has been operating since May 1, 2021, with an appointment-only sales model.
- 2) FFD has six (6) points of sale and the ability to process up to 150 transactions *per hour*.
- 3) After 14 months, FFD has averaged 33 transactions *per day*, with 60-70 transactions *per day* in July/August. Of those, approximately 2-3 people per hour have shown up without an appointment.
- 4) FFD's busiest hours are 12:00 pm to 1:30 pm and then again from 4:00 pm to close.
- 5) FFD has had two peak days: Opening Day with 113 transactions total and a second day with 47 transactions total.
- 6) The parking lot can accommodate up to 22 vehicles; the lot has never been at capacity.
- 7) Correspondence from Tea Lane Associates indicates that they have had three instances of people parking in their lot and walking over to FFD. Cory Ravelson, COO, said he will address this directly and encourage them to call so they can immediately intervene should this happen again.
- 8) The effect of removing appointment-only restrictions should be reviewed before allowing Sunday hours.
- 9) The application was considered under the review criteria of Section 9.2-2 of the Zoning Bylaws and the use found to be in harmony with the intent of this bylaw and to be consistent with other uses in the Mixed Business District.

Conditions 1) This special permit is restricted by all conditions of the Martha's Vineyard Commission decision on DRI 696-M dated July 12, 2022 and recorded on July 27, 2022 in Book 1632, Page 348, to the

extent that they do not specifically conflict with the conditions set forth in this amended special permit.

2) Condition No. 2 of Special Permit 2021-13 regarding hours and days of operation is modified as follows; **October 2-April 30: Monday through Saturday 9:00 am to 6:00 pm. and May 1-October 1: 9:00 am to 7:00 pm. No Sunday hours allowed.**

3) Condition Nos. 3, 4, 5, and 6 of Special Permit 2021-13 regarding appointment-only restrictions are removed.

4) Condition No. 7 of Special Permit 2021-13 is modified. Applicant shall return to the Zoning Board of Appeals in May 2023 for a review of daily and/or weekly walk-in traffic data AND to re-visit allowing Sunday hours to start June 1, 2023.

6) Condition No. 8 of Special Permit 2021-13 remains in effect

NOTE WELL:

It is understood that the applicant will obtain all other permits or authorizations required by the Town of West Tisbury before proceeding with any work.

NO VARIANCE OR SPECIAL PERMIT SHALL TAKE EFFECT UNTIL:

1. A period of twenty days has elapsed from the date of the filing of the Board's written Decision with the Town Clerk, and the applicant has received a copy of the Decision bearing the certification of the Town Clerk that a period of twenty days has elapsed from the filing of the Decision and that no appeal has been filed, or the appeal has been denied or dismissed. The Certified Decision is recorded at the Dukes County Registry of Deeds and the recording fee has been paid at the Dukes County Registry of Deeds. Only *Original Documents* will be accepted at the Registry.
2. A receipt for the recording stamped by the Dukes County Registry of Deeds has been returned to the Building & Zoning Inspector of West Tisbury or to the office of the West Tisbury Board of Appeals who will turn over the receipt to the Building and Zoning Inspector.
3. The applicants may proceed with applying to the appropriate Town of West Tisbury Officers and Boards for any other development permits which may be required by law.

Any person aggrieved by the Decision of the West Tisbury Board of Appeals may appeal to Superior Court and must notify the Town Clerk of the action and submit a copy of the complaint within twenty days after the decision has been filed in the office of the Town Clerk.

A Special Permit shall lapse in 2 years if not utilized. A Variance shall lapse in one year if not utilized.

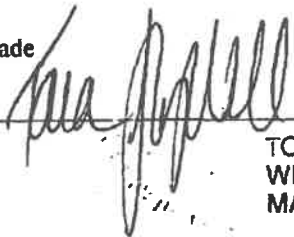
The Building and Zoning Inspector may approve at his discretion, minor changes that come up during the building process. All major changes to the plans or significant material changes must be approved by the Zoning Board of Appeals. Please consult with the Inspector regarding any change. Failure to do so may nullify your permit and may require removal of the unapproved construction.

Filed with the West Tisbury Town Clerk on August 22, 2022.

August 22, 2022



I certify that no appeal has been made



September 13, 2022

TOWN CLERK
WEST TISBURY
MASS. 02575

Case: FFD-Dispensary
Date: 8/11/27
Map & Lot: 16-101

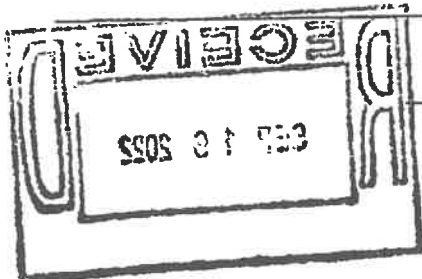
**WEST TISBURY ZONING BOARD OF APPEALS
RECORD OF VOTE**

The following members of the Board of Appeals vote to grant an Amendment to a Decision of Approval of a Special Permit subject to the above stated term (see decision attached).

[Signature]
[Signature]
[Signature]

[Signature]
[Signature]

The following members of the Zoning Board of Appeals are in opposition to the grant of the Special Permit.



**ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds**